

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

# THRIVENT FINANCIAL FOR LUTHERANS,

Plaintiff

**V.**

**ERIC C. SMALLEY, INDEPENDENT  
ADMINISTRATOR OF THE ESTATE OF  
JOHN HUBERT SMALLEY, III,  
DECEASED, AND  
LISA MURDOCK SMALLEY,**

## Defendants

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**CIVIL ACTION NO. 4:10-CV-02738**

**ORDER ON MOTION TO MODIFY, CORRECT,  
OR REFORM JUDGMENT**

On this day the Court considered the motion of Eric C. Smalley, Independent Administrator (“Independent Administrator”) of the Estate of John Hubert Smalley, III, Deceased (“Decedent”), to modify, correct, or reform the final judgment in this case rendered by the Court on July 26, 2011. After due consideration the Court finds that the final judgment signed on July 26, 2011, was erroneous in that it failed to include an award of interest on the interpled funds. The Court further finds that the motion to modify, correct, or reform the judgment was timely filed and that the Court has plenary power to modify, correct, or reform the judgment at this time.

IT IS THEREFORE ORDERED by the Court that the motion of the Independent Administrator to modify, correct, or reform the final judgment is GRANTED and that the final judgment that was signed on July 26, 2011, is hereby vacated in its entirety.

SIGNED at Houston, Texas, this \_\_\_\_\_ day of September, 2011.

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**Keith P. Ellison**

United States District Judge

**Certificate of Conference**

I certify that I conferred with James Stilwell, counsel for Lisa Murdock Smalley, on September 21, 2011, regarding this order, and he does not oppose the Court granting this order.

/s/ Vicki Whitlow Thomas

Vicki Whitlow Thomas